

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

DANNY YOUNG,

Plaintiff,

v.

BRIDGESTONE AMERICAS HOLDING, INC.,

Defendant.

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Case No. 3:06cv0678

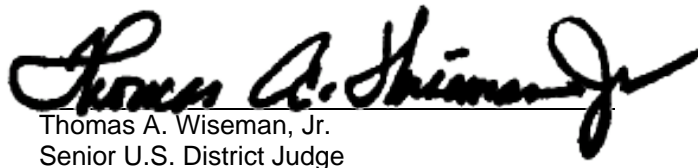
ORDER

Pending before the Court is the Second Motion to Dismiss filed by Defendant Bridgestone Americas Holding, Inc. (Doc. No. 16), in which the Defendant argues that Plaintiff Danny Young's claim is properly characterized as one brought under 29 U.S.C. § 1140, and as such is barred by the applicable statute of limitations and by the doctrine of issue preclusion. Plaintiff filed his response in opposition to the motion (Doc. No. 20), in which he argues that the claim is brought under 29 U.S.C. § 1132 for wrongful denial of disability benefits and therefore is not subject to dismissal.

As set forth in the accompanying Memorandum Opinion, the Court finds that Plaintiff's claim is properly characterized as one brought under 29 U.S.C. § 1132 (ERISA § 502). Defendant's motion is therefore **DENIED**. The Court has also considered Defendant's reply to Plaintiff's response (Doc. No. 21) and the suggestion therein that Plaintiff should file a second amended complaint. Said suggestion is rejected as unnecessary in view of the Court's ruling.

It is so **ORDERED**.

The case is referred to the Magistrate Judge for further case management.


Thomas A. Wiseman, Jr.
Senior U.S. District Judge